IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7209 of 2004

Between:

V.Trisula Pani, S/o.Late Srihari Rao,
West Godavari District, R/o.D.No.21-1-28/8, Sarraju Street, Bhimavaram-534201,
West Godavari District.

..... PETITIONER

AND

1 State of Andhra Pradesh, represented by Secretary to Government, Law (L.A. & J-Home-Courts-D) Department,
Secretariat Buildings, Hyderabad-500022.
2 High Court of Andhra Pradesh, represented by Registrar (Administration), High Court Buildings, Hyderabad-2.
3 The District Judge, West Godavari District at Eluru-534006.
4 Smt.K.Vishnupriya, W/o.Late M.Ravindranath Tagore,
R/o.D.No.25-7-10, Near Datta Sai Apartments, Narasimharao Pet, Eluru-534006, W.G.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to praying to issue an appropriate order, direction or writ, more particularly one in the nature of Writ of mandamus declaring Rule 8(a) and entry (1) in Annexure-I of A.P. Judicial Ministerial Service Rules (Revised Rules) 2003, insofar as, they are adverse to the legitimate interests of the petitioner as arbitrary and illegal, unjust, unfair and unreasonable opposed to the principles of natural justice and violative of

Articles 14, 16 and 21 of Constitution of India and issue a consequential direction to the 3rd respondent to set aside the selection and appointment of 4th respondent as Administrative Officer (as per Dis.No.1657 dated 4-3-2004) and to consider the case of the petitioner for appointment to the said post without insisting on the possession of degree.

Counsel for the Petitioner:MR.S.UDAYACHALA RAO & MUJIB KUMAR S.

Counsel for respondent No.1: GP FOR HOME

Counsel for respondent NO.2: MR C.V.Nagarjuna Reddy

Counsel for respondent No.3:

Counsel for respondent No.4:

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

Challenge by the petitioner, who is working as Sheristadar in the Court of the Senior Civil Judge, Bhimavaram to Rule 8(a) read with the Annexure I of the A.P. Judicial Ministerial Service Rules (Revised) 2003 issued in G.O.Ms.No.129 dated 12-11-2003 prescribing qualifications for the post of Administrative Officer is misconceived.

Submission of the petitioner is that he was selected and appointed as a Lower Division Clerk (now Junior Assistant) by the Andhra Pradesh Publish Service Commission in the year 1966 and was allotted to the Court of the District Judge, Guntur. He was later transferred to the unit of the 3rd respondent-District Judge, West Godavari District and worked in various capacities. He was promoted to the post of Sheristadar, which is a category II post under the Andhra Pradesh Judicial Ministerial Service Rules, 1964, in the year 1996. The case of the petitioner is that as on the date when he joined service, as per the rules in force then, he could have been promoted to the post of Sheristadar, District Court, which is category I post, (which is now redesignated as Administrative Officer) but for the amendment carried out to the Rules, whereby the qualification of graduation is prescribed for the said post. Petitioner says that he is not a graduate and now by the impugned amendment, the right, which accrued to him on the date of his entry into the service for being considered for promotion to the said post, has been taken away. It is submitted that amendment could not have been carried out to his disadvantage.

Reference is made to the proviso under Rule 2 of the Fundamental Rules.

The proviso to Fundamental Rule 2 says that Fundamental Rules shall not be modified to the disadvantage of any person already in service except in relation to matters relating to age of superannuation. However, it is settled law that there is no embargo or prohibition for the rule making authority to carry out necessary amendments to rules relating to promotion and fixing higher qualifications for improving the efficiency and standard of service thereby affecting the right of any person to be considered for higher post.

We find no merit in the writ petition and the same is dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

17th June, 2004.

nmr

ASSISTANT REGISTRAR

// true copy //

SECTION OFFICER

To

1 State of Andhra Pradesh, represented by Secretary to Government, Law (L.A. & J-Home-Courts-D) Department,
Secretariat Buildings, Hyderabad-500022.
2 High Court of Andhra Pradesh, represented by Registrar (Administration), High Court Buildings, Hyderabad-2.
3 The District Judge, West Godavari District at Eluru-534006.

4. 2 CD copies.

5 Spare copy.